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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,223	01/26/2004	Byoung-Woo Cho	1781.1002	6553

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EXAMINER	
TOMPKINS, ALISSA JILL	

ART UNIT	PAPER NUMBER
3765	

MAIL DATE	DELIVERY MODE
12/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/763,223	CHO, BYOUNG-WOO	
	Examiner	Art Unit	
	ALISSA J. TOMPKINS	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 September 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3 and 5-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3 and 5-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Amendment

Applicant's after final amendment filed on 9/21/2009 was considered to be persuasive. A new rejection can be found below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall McKenzie (U.S. 6,557,180) in view of Roon (U.S. 2,268,809) and further in view of Konucik (U.S. 4,941,210). Hall McKenzie discloses a hat having a reversible crown. The crown has two major opposing surfaces 10 and 11. Each side of the crown therefore is covered with fabric. The headwear has a layer of fabric on the inside and the outside of the crown and is considered to be made of a multiple fabric. The headwear assembly can be modified to utilize various fabrics on the two reversible crown displays (Column 2, 23-25). The crown portion is formed by a plurality of panels connected to one another (Figures 1 and 3-5). The warp and weft yarns of crown portions 10 and 11 correspond to one another (Figure 1).

However, Hall McKenzie is missing a multiple fabric comprising first and second warps, and he is also missing a sweatband that can be attached to the inner side of the headwear device.

Roon shows a woven elastic fabric having first and second warps 12a and 12b. The warp yarns are considered to be arranged in respective layers having weft yarns 14 passing through them in zig zag form. The first warps may overlap the second warps so that the centers of the first warps are above spaces between adjacent ones of the second warps and sides of the first warps are above sides of adjacent ones of the second warps, and the first and the second warps being side-by-side in a stretched state of the head receiving part (Figures 1-4; Column 2, 21-50). It is noted by the examiner that the applicant has given no definition to the term "unstretched." It is well known in the art that when warps and/or wefts are not being stretched to their breaking point that they are considered to be in an unstretched state. Konucik discloses a quick-change sweatband that is designed to be attached to a cap (Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Roon and Konucik to modify Hall McKenzie in order to provide a sweatband that is comfortable and easy to attach/detach from the relaxed headwear.

Claims 9-11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall McKenzie in view of Roon and Konucik and further in view of Yan (U.S. 6,131,202). Hall McKenzie, Roon, and Konucik disclose the invention substantially as applied in claim 1 above. However, they are missing a sweatband including a stretchable fabric and a band core comprising a foam layer and an elastic

band layer, wherein the band core and stretchable fabric are stitched along the lower edge with stretchable yarn. Shape tape is also stitched along the lower end to help maintain the shape of the headwear. Yan shows a stretchable fabric cap 2 made from cotton and spandex having a sweatband attached to the lower edge with stretchable thread (Column 3, 23-30 and 56-59). The sweatband 24 includes a band core (Figure 5), which has a foam elastomeric band allowing alleviation of pressure for the wearer. He also shows bias tapes stitched along the lower end of the headwear helping maintain its shape. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Yan to modify Hall McKenzie, Roon, and Konucik in order to provide a sweatband that offers the wearer more comfort and elasticity while allowing the headwear to be adapted to various head sizes without an additional size adjustable mechanism.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall McKenzie, Roon, Konucik, and Yan in further view of Lee (U.S. 6,347,410). Hall McKenzie, Roon, Konucik, and Yan disclose the invention substantially as applied in claims 1-11, and 13-20 above. However, they are missing yarns that are uniaxially stretchable. Lee shows a self-sizing baseball cap 10 wherein the sweatband segment is uniaxially stretchable (Column 4, 7-8 and 11-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Lee to modify Hall McKenzie, Roon, Konucik, and Yan in order to offer a cap that is able to stretch uniaxially providing additional comfort and use to more wearers.

Response to Arguments

Applicant's arguments with respect to claims 1-3 and 5-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lilley (U.S. 2,384,936), Gobielle (U.S. 1,922,944), and Kops (U.S. 2,040,657) show garments having weaving configurations similar to applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALISSA J. TOMPKINS whose telephone number is (571)272-3425. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alissa J. Tompkins/
Examiner, Art Unit 3765

/GARY L. WELCH/

Supervisory Patent Examiner, Art Unit 3765